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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,228	05/02/2001	Malcolm Gibson Hodgskiss		7403

7590 01/14/2004
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CANADA

EXAMINER

AFTERGUT, JEFF H

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/846,228

Applicant(s)

HODGSKISS, MALCOLM GIBSON

Examiner

Jeff H. Aftergut

Art Unit

1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☒ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-6.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

10. ☒ Other: See Continuation Sheet

Jeff H. Aftergut
Jeff H. Aftergut
Primary Examiner
Art Unit: 1733

Continuation of 2. NOTE: The proposed amendment included the addition of the term "substantially" before the word "resilient" in describing the adhesive joint. The applicant is advised that it is not clear what the scope of the term "substantially" is in redefining "resilient" as the original disclosure did not provide for the term and what degree of resilience was envisioned to be limited to by the language (inclusion of the language may prompt a rejection under 35 USC 112, first paragraph under new matter as well as one under 35 USC 112, second paragraph as to the precise scope of the language. Additionally, the inclusion of the limitation that the wood piece is more than one fiftieth of an inch in thickness is considered new matter not supported by the original disclosure. Applicant is additionally advised that the limitation relating to the contact of the adjoining edges of the individual wood elements (claim 4) was interpreted to mean that the individual pieces were in contact with one another through the adhesive material used between the pieces in Brown. This is how applicant originally presented the contact with the adhesive material 2 in the original disclosure and no other reasonable interpretation could be given to applicant's adjoining edges of the individual wooden pieces contacting each other. Additionally, applicant is advised that the claims do not recite that the surface presented is a smooth surface which is a continuous wooden surface (nor is it clear whether applicant has support to recite the same from the original disclosure). As such, the claims are not commensurate in scope with the arguments relating to the continuous smooth wooden surface provided by the invention.

Continuation of 10. Other: Applicant is advised that future communication with the examiner should be directed to Jeff Aftergut at 571-272-1212. The examiner is normally available between the hours of 7:15-3:45 pm eastern standard time. .